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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,873	01/23/2004	Michael J. Lembo	D0932-00432	6004

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EXAMINER

BLAKE, CAROLYN T

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/763,873	Applicant(s) LEMBO ET AL.	
	Examiner Carolyn T. Blake	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 9, 10, 12 and 17-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11, 13-15 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I and Species IV and VI in the reply filed on September 6, 2005 is acknowledged.
2. Claim 9 and 10 are drawn to an unelected species and has been withdrawn from consideration.

Drawings

3. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).
4. The drawings are objected to because reference number 100 is referred to as an insulation manufacturing apparatus in the disclosure (page 3, paragraph 22), but appears to be depicting a section or lane of insulation in the FIG 9A.
5. The drawings are objected to because reference number 26 does not appear in FIGS 3A-5 as stated in the disclosure (page 3, paragraph 23).
6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 28.
7. Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective

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action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-4 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakaya (4,781,091).

Regarding claim 1, Nakaya discloses an apparatus for manufacturing insulation comprising: a conveying means (4) for conveying said insulation; a rotary die cutting cylinder (2) located along a path of the conveying means (4) and having one slicing rule (8) and at least one cutting rule (8); and an anvil (3) cooperative with said rotary die cutting cylinder (2) for severing said insulation.

Regarding claim 2, Nakaya discloses two adjacent conveyor belts (4 and 5).

Regarding claim 3, Nakaya discloses the rotary die cutting cylinder (2) and anvil (3) are located intermediate the two conveyor belts (4 and 5).

Regarding claim 4, Nakaya discloses the rotary die cutting cylinder (2) includes three slicing rules (8) and one cutting rule (8).

Regarding claim 28, Nakaya discloses the rotary die cutting cylinder (2) is oriented relative to the conveying means so that the insulation is severed transversely.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya as applied to claim 1 above, and further in view of Marco (5,211,711).

Nakaya fails to disclose six perfining or slicing rules and two cutting rules. Marco discloses an apparatus comprising a rotary cutting cylinder (100) having at least six perfining rules (120) and two cutting rules (110). In addition, these rules are removable. (See FIG 5 or 6 that shows the rules as a separate component from the cylinder and thus inherently removable.) The Marco cutting cylinder creates a different cutting pattern on the work product than that created by the Nakaya cutting cylinder. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the Nakaya cutting cylinder with the Marco cutting cylinder for the purpose of creating a different work product.

12. Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya.

Nakaya fails to disclose the dimensions of the device. However, to create a cutting device with the dimensional parameters claimed would have been obvious to one of ordinary skill in the art for the purpose of spatial constraints, work piece dimensions, or available tooling.

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13. Claims 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya as applied to claim 1 above, and further in view of Marco.

Nakaya fails to disclose six perfining or slicing rules and two cutting rules. Marco discloses an apparatus comprising a rotary cutting cylinder (100) having least six perfining rules (120) and two cutting rules (110). The Marco cutting cylinder creates a different cutting pattern on the work product than that created by the Nakaya cutting cylinder. In addition, varying the number of the perfining and cutting rules by any reasonable number would have been obvious in order to create a different work product. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the Nakaya cutting cylinder with the Marco cutting cylinder and vary the number of rules as desired for the purpose of creating a different work product.

In addition, Nakaya fails to disclose the dimensions of the device. However, to create a cutting device with the dimensional parameters claimed would have been obvious to one of ordinary skill in the art for the purpose of spatial constraints, work piece dimensions, or available tooling.

14. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya as applied to claim 1 above, and further in view of Ohara (5,695,105).

Nakaya fails to disclose means for tearing. However, Ohara discloses means for automatically tearing separable segments apart wherein the tearing means includes for conveying a first and second adjacent separable segments at different speeds to tear the first and second segments apart from each other. See col. 1, lines 33-40. This

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method could be easily implemented in the Nakaya device due to the location of the two conveyors (4 and 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to move the Nakaya conveyors at different speeds, as taught by Ohara, for the purpose of separating segments because the method could easily be implemented on the device.

Conclusions

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Friday, 8:00 AM to 5:30 PM, alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CB

CB
September 23, 2005



Allan N. Shoap
Supervisory Patent Examiner
Group 3700